

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed Final Official Action provided. Upon entry of the present paper, claims 1, 2, 4 and 9 will have been amended. No new matter has been added. Claims 1-22 are pending before the Examiner. Applicants respectfully request reconsideration and withdrawal of the outstanding rejections of the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate.

The Examiner has objected to claims 2 and 4 due to informalities. Without agreeing to the propriety of the Examiner's objection, Applicants have amended these claims, and respectfully request withdrawal of this objection.

The Examiner has maintained the rejection of claims 1-7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2001/0017984 to KABE, again finding that this reference teaches all limitations of these claims. In the "Response to Arguments" section of the Final Official Action, asserting that there is no limitation to limit the sealing member from extending to the outside of the shutter and the image pickup element.

Applicants again respectfully traverse the Examiner's rejection. While Applicants respectfully disagree with the propriety of the outstanding rejection of the claims, solely in order to advance the prosecution of the present application, Applicant has clarifyingly amended independent claim 1 to generally recite that the sealing member has a first end portion affixed to the shutter and further has a second end portion affixed to the image pickup element, which should not be taken as an acquiescence to the propriety of the Examiner's rejection. No new matter has been added.

To the contrary, Applicant again notes that the applied KABE reference (as shown, *e.g.*, in Figs. 2-4) merely discloses a lens barrel extending the length of the optical system as the "sealing member." Thus, this "sealing member" as identified by the Examiner does not have a first end portion affixed to a shutter 16 and or a second end portion affixed to an image pickup element 18,

but rather what may be considered the first and second end portions extend outside and beyond these components. In other words, the end portions of the “sealing member” of KABE are not affixed to any of a shutter or an image pickup element. Therefore, Applicants respectfully submit that KABE fails to teach or render obvious the sealing member having a first end portion affixed to the shutter and further having a second end portion affixed to the image pickup element, as generally recited in claim 1.

The Examiner has also rejected claims 1-2, 5, 9-17 and 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2003/0001964 to KATO, finding that this reference teaches all limitations of these claims.

Applicants respectfully traverse the Examiner’s rejection. While Applicants respectfully disagree with the propriety of the outstanding rejection of the claims, solely in order to advance the prosecution of the present application, Applicant has amended independent claims 1 and 9 to each generally recite that the sealing member has a first end portion affixed to the shutter and further has a second end portion affixed to the image pickup element, which should not be taken as an acquiescence to the propriety of the Examiner’s rejection.

To the contrary, and similar to the applied KABE reference, the “sealing member” (as identified by the Examiner) of KATO (as *schematically* shown, *e.g.*, in Fig. 7) is merely two components 142, 143 internal to a camera body, none of which has a first end portion affixed to a shutter and a second end portion affixed to an image pickup element, but rather what may be considered the first and second end portions extend outside and beyond at least one of the shutter and image pickup element. Additionally, KATO is completely silent as to whether the “sealing member” of element 142 is capable of sealing. Therefore, Applicants respectfully submit that KATO fails to teach or render obvious the sealing member having a first end portion affixed to a shutter and further having a second end portion affixed to an image pickup element, as generally recited in each

of independent claims 1 and 9.

With respect to the Examiner's rejection of dependent claims 2-8, 10-17 and 22, Applicants submit that these claims are dependent from one of allowable independent claims 1 and 9, which are allowable for at least the reasons discussed *supra*. Thus, these dependent claims are also allowable for at least the reasons discussed *supra*. Further, all dependent claims set forth a further combination of elements neither taught nor disclosed by any of the applied references.

Absent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied references fails to disclose each and every element recited in independent claims 1 and 9, and the claims dependent therefrom, these claims are not anticipated thereby. Accordingly, the Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. § 102.

The Examiner has rejected dependent claim 8 under 35 U.S.C. § 103(a) as being unpatentable over KABE in view of U.S. Patent No. 6,225,244 to OGUMA, and has rejected claims 18-21 under 35 U.S.C. § 103(a) as being unpatentable over KATO in further view of YOSHINO. With respect to these rejected dependent claims, Applicants note that since claims 8, 18 and 19 are dependent from independent claim 1, and since claims 20-21 are dependent from allowable independent claim 9, which is allowable for at least the reasons discussed *supra*, these dependent claims are also allowable for at least the reasons discussed *supra*. Further, all dependent claims set forth a further combination of elements neither taught nor disclosed by any of the applied references. It is thus respectfully requested that the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

Thus, Applicants respectfully submit that each and every pending claim of the present application meets the requirements for Patentability at least under 35 U.S.C. §§102 and 103, and respectfully request the Examiner to indicate the allowance of each and every pending claim in the present application.

Applicants note that the status of the present application is after final rejection and that once a final rejection has issued, an Applicant does not have a right to amend an application. Nevertheless, in the present situation, Applicants respectfully submit that entry of the present amendment is appropriate and proper and in full compliance with 37 C.F.R. § 1.116.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or renders obvious the present claimed invention, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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January 7, 2009  
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